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10/722,231

11/25/2003

Bradley R. Hammell

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12/20/2010

PITNEY BOWES INC.

INTELLECTUAL PROPERTY & TECH. LAW DEPT.

35 WATERVIEW DRIVE

MSC 26-22

SHELTON, CT 06484

EXAMINER

OBEID, FAHD A

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1 UNITED STATES PATENT AND TRADEMARK OFFICE

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4 BEFORE THE BOARD OF PATENT APPEALS
5 AND INTERFERENCES
6

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8 *Ex parte* BRADLEY R. HAMMELL
9

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11 Appeal 2009-006886
12 Application 10/722,231
13 Technology Center 3600
14

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16 Before MURRIEL E. CRAWFORD, ANTON W. FETTING, and
17 JOSEPH A. FISCHETTI, *Administrative Patent Judges*.
18 FETTING, *Administrative Patent Judge*.

19 DECISION ON APPEAL¹
20

¹ The two-month time period for filing an appeal or commencing a civil action, as recited in 37 C.F.R. § 1.304, or for filing a request for rehearing, as recited in 37 C.F.R. § 41.52, begins to run from the “MAIL DATE” (paper delivery mode) or the “NOTIFICATION DATE” (electronic delivery mode) shown on the PTOL-90A cover letter attached to this decision.

STATEMENT OF THE CASE²

Bradley R. Hammell (Appellant) seeks review under 35 U.S.C. § 134 (2002) of a final rejection of claims 1-20, the only claims pending in the application on appeal.

We have jurisdiction over the appeal pursuant to 35 U.S.C. § 6(b) (2002).

The Appellant invented a way of providing status inquiries regarding delivery of shipments (Specification 1:¶ 0001).

An understanding of the invention can be derived from a reading of exemplary claim 1, which is reproduced below [bracketed matter and some paragraphing added].

1. A method for a user to find pinpoint status of a shipment being transported by a carrier, comprising the steps of:
 - [1] clicking on a shipment pinpoint symbol on a computer screen;
 - [2] connecting automatically to an internet or private network, if a connection is not already established;
 - [3] sending automatically a shipping pinpoint inquiry to the carrier via the internet or private network;

² Our decision will make reference to the Appellant's Appeal Brief ("App. Br.," filed September 2, 2008) and the Examiner's Answer ("Ans.," mailed October 17, 2008).

1 [4] requesting a pinpoint location of the shipment in
2 response to the shipping status inquiry; and
3 [5] receiving the requested pinpoint location of the shipment
4 to the computer screen,
5 [6] wherein the pinpoint location identifies a position
6 between checkpoints at each of which shipment presence is
7 monitored regardless of user inquiries.

8 The Examiner relies upon the following prior art:

Williams	US 2002/0032573 A1	Mar. 14, 2002
Bednarek	US 6,965,868 B1	Nov. 15, 2005

9 Claims 1-3 and 5-20 stand rejected under 35 U.S.C. § 102(b) as
10 anticipated by Williams.

11 Claim 4 stands rejected under 35 U.S.C. § 103(a) as unpatentable over
12 Williams and Bednarek.

13 ISSUES

14 The issues are whether Williams describes retrieving geographic
15 pinpoint data and whether Williams describes various limitations in claims
16 6, 11, 19, and 20.

17 FACTS PERTINENT TO THE ISSUES

18 The following enumerated Findings of Fact (FF) are believed to be
19 supported by a preponderance of the evidence.

20 *Facts Related to Claim Construction*

21 01. Pinpoint status means any shipment status that provides greater
22 accuracy than checkpoint status. The checkpoint status comprises

1 information as to whether a shipment has reached or been scanned
2 at one or more discrete points. Specification ¶ 0026.

3 *Facts Related to Appellant's Disclosure*

4 02. When a pinpoint inquiry is sent, the carrier ascertains a pinpoint
5 location of the shipment between checkpoints. This may be done,
6 with a global positioning satellite (GPS) device, and then the
7 carrier can plot the GPS coordinates on a map and present the map
8 to the user. Specification ¶ 0022.

9 03. The user clicks on the pinpoint symbol to actually cause the
10 carrier to find out where the shipment is located between
11 checkpoints. Specification ¶ 0024.

12
13 *Facts Related to the Prior Art*

14 *Williams*

15 04. Williams is directed to providing enterprises with online, multi-
16 parcel, multi-carrier, multi-service enterprise parcel shipping
17 management. Williams ¶ 0017.

18 05. Williams shows exemplary screen shots of entering shipping
19 information. Several fields are for entry of "shipment"
20 information, such as number of packages in shipment and delivery

1 address for shipment. Other fields include those for selection of
2 the priority of shipment and carrier. Williams 101, 110, and 120.³

3 06. When a Shipper ships a package using Williams, one or more
4 of the System's Servers create a new System tracking number.
5 When a new System tracking number is created, one of the
6 System's Database Servers adds a new package record with the
7 newly created System tracking number to a Package Table.
8 Williams ¶ 0539.

9 07. In one embodiment, Williams' Server will track the package
10 using the Carrier's Internet tracking routine. Williams ¶ 0564. If
11 the Carrier returns a valid tracking response, the Server updates
12 the package status in the Server Database with the tracking
13 response and returns the detailed package information to the Web
14 Client of the requesting user/Shipper. Williams ¶ 0565.

15 08. Williams sends an e-mail notifying that a package has been
16 sent. The User can enter a message or the System sends a standard
17 message. Williams ¶ 0258 and 497-498. One of ordinary skill
18 understood that an automated loading of e-mail by a system
19 process rather than by a user occurred in background processing,
20 since the user was not involved.

³ Although these pages in Williams contain graphic images, these pages are not part of the drawing section of Williams.

ANALYSIS

Claims 1-3 and 5-20 rejected under 35 U.S.C. § 102(b) as anticipated by Williams.

Claim 1 is the parent to claims 2, 3, and 5. Claim 1 recites receiving the requested pinpoint location of the shipment to the computer screen. The Appellant argues that Williams does not describe this. Appeal Br. 9-11. The Appellant contends that the Specification makes it clear that pinpoint information is positional information between checkpoints. We agree. FF 01 - 03. We also find that independent claim 13 and its dependent claims 14-16 contain a similar limitation.

The Examiner has not made any findings that Williams describes such positional information. The Examiner found that Williams described providing detailed information. Ans. 8. The Examiner made no findings that the detailed information in Williams was positional pinpoint information. Therefore, we will not sustain the rejection of these claims 1-3, 5, and 13-16.

Claim 6 is the parent to claims 7-12 and 17-20. Claim 6 recites receiving a type of shipment selection. The Examiner found that Williams showed examples of this at Williams 101, 110, and 120, which show exemplary screen shots with fields for “shipment” data. The Appellant argues that the activity in Williams is pre-shipment activity. Appeal Br. 12. This is a distinction without a difference. The claim requires “receiving a type of shipment selection.” The claim does not specify when the receipt occurs, and certainly does not preclude information regarding prospective

1 shipments. Information about a shipment prior to the actual movement of a
2 package still provides information about that shipment.

3 Claim 11, in combination with its parent claims 6 and 8, requires
4 replacing or modifying a file that includes markup language and that
5 includes at least one link to shipment tracking information, and that
6 modification be implemented at least partly by the carrier or by the
7 additional carrier. The Examiner found that Williams described this on page
8 30 in paragraphs 539-541 and 544. Ans. 6. The Appellant contends
9 Williams' system server performs the modification rather than a carrier.
10 Appeal Br. 12. Williams at paragraph 0539 shows that both the Examiner
11 and Appellant are correct. FF 06. The modification occurs on a system
12 server, but based on the action of the carrier. Thus, the requirement of claim
13 11 is met.

14 Claim 19 requires that the program stored in the user device displays a
15 location message when a delivery vehicle is a first distance from a delivery
16 location associated with the shipment. The Examiner found that Williams
17 described this at paragraph 0565. Ans. 6-7. The Appellant contends this is
18 not shown. Ans. 12. This portion of Williams describes updating tracking
19 information using the Carrier's Internet tracking routine. The Server updates
20 the package status in the Server Database with the tracking response when
21 tracking information is received. As tracking information is received when
22 various checkpoints are reached, and each checkpoint is a delivery location
23 associated with the shipment, Williams' user device displays a location
24 message when a delivery vehicle is a first distance (zero) from a delivery
25 location associated with the shipment.

1 Claim 20 requires that the program stored in the user device is loaded as
2 a background process after the status indication changes. The Examiner
3 found that Williams described this in paragraphs 0258 and 495-497 with Fig.
4 27. Ans. 7. The Appellant contends this is not shown. Ans. 12. Williams
5 describes loading an e-mail message in background to notify of shipment
6 information. FF 08.

7 None of the remaining claims 7-10, 12, 17, and 18 depending from claim
8 6 are separately argued.

9
10 *Claim 4 rejected under 35 U.S.C. § 103(a) as unpatentable over Williams*
11 *and Bednarek.*

12 Claim 4 depends from claim 1 and Bednarek does not remedy the
13 deficiency in Williams. Thus, the rejection of claim 4 also fails to have a
14 prima facie case.

15 CONCLUSIONS OF LAW

16 Rejecting claims 1-3, 5, and 13-16 under 35 U.S.C. § 102(b) as
17 anticipated by Williams is in error.

18 Rejecting claims 6-12 and 17-20 under 35 U.S.C. § 102(b) as anticipated
19 by Williams is not in error.

20 Rejecting claim 4 under 35 U.S.C. § 103(a) as unpatentable over
21 Williams and Bednarek is in error.

DECISION

To summarize, our decision is as follows.

- The rejection of claims 1-3, 5, and 13-16 under 35 U.S.C. § 102(b) as anticipated by Williams is not sustained.
- The rejection of claims 6-12 and 17-20 under 35 U.S.C. § 102(b) as anticipated by Williams is sustained.
- The rejection of claim 4 under 35 U.S.C. § 103(a) as unpatentable over Williams and Bednarek is not sustained.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a). *See* 37 C.F.R. § 1.136(a)(1)(iv) (2007).

AFFIRMED-IN-PART

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